

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

USI INSURANCE SERVICES

NATIONAL, INC., formerly known as

WELLS FARGO INSURANCE

SERVICES USA, INC.,

Plaintiff,

v.

STANLEY OGDEN, an individual;

ELEANOR O'KEEFE, an individual;

JOHN HASKELL, JR., an individual; and

ABD INSURANCE AND FINANCIAL

SERVICES, INC., a Delaware corporation,

Defendants.

NO. 2:17-CV-01394-SAB

**ORDER DENYING
DEFENDANTS' MOTION FOR
RECONSIDERATION**

Before the Court is Defendants' Motion for Reconsideration RE Order Quashing Trial Subpoena, ECF No. 225. The motion was heard without oral argument. Plaintiff is represented by Thomas Holt, Megan Crowhurst, and Anne Reuben. Defendants are represented by Christopher Banks, Molly Terwilliger, Patrick Duffey, Debra Fischer and Anna Saber.

On February 22, 2023, the Court granted Plaintiff's Motion for Protective
ORDER DENYING DEFENDANTS' MOTION FOR RECONSIDERATION

1 Order and quashed the trial subpoenas that were directed at Plaintiff and Dr.
2 Nickerson. ECF No. 224. Defendants ask the Court to reconsider that Order. The
3 Court declines to do so. While the Court recognizes that the requested materials
4 would have been discoverable, the problem is the timing of the request.

5 This case was filed on September 15, 2017. After it was reassigned, the
6 Court held a hearing on September 25, 2019. The parties informed the Court that
7 the discovery and dispositive motions deadlines had passed and the Court entered a
8 Scheduling Order. The trial date was continued a number of times.

9 On July 31, 2020, the Court denied Defendants' Motion to Exclude
10 Testimony and Reports. Notably, in making their arguments, Defendants did not
11 argue that they needed access to Dr. Nickerson's raw data. Almost two years later,
12 Defendants asked the Court to reopen the discovery and expert witness deadlines.
13 The Court denied Defendants' request. The Court noted that Dr. Nickerson's July
14 2019 report was not untimely but rather was proper supplementation to his initial
15 timely disclosed expert report. It also noted that Defendants did not act with due
16 diligence, given that they were put on notice in March 2020 that Plaintiff intended
17 to rely on Dr. Nickerson's Second Supplemental Report.

18 Similarly, it is without question that Defendants are seeking discovery with
19 their trial subpoenas and the time for that request has long since passed.
20 Defendants have not acted with due diligence to obtain what they now believe is
21 necessary discovery. There is no need to reopen discovery three weeks before trial.

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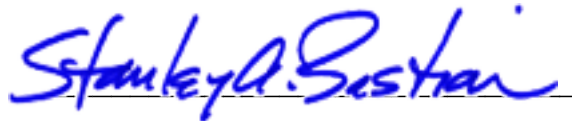
ORDER DENYING DEFENDANTS' MOTION FOR RECONSIDERATION

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Defendants' Motion for Reconsideration RE Order Quashing Trial
3 Subpoena, ECF No. 225, is **DENIED**.

4 **IT IS SO ORDERED.** The District Court Clerk is hereby directed to enter
5 this Order and to provide copies to counsel.

6 **DATED** this 23rd day of February 2023.

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10 U.S. Judge Stanley A. Bastian
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